

HOUSE BILL 3431

By Matlock

AN ACT to amend Tennessee Code Annotated, Title 50, to enact the "Unemployment Insurance Accountability Act of 2012."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Unemployment Insurance Accountability Act of 2012".

SECTION 2. Tennessee Code Annotated, Section 50-7-303(b)(3), is amended by deleting subdivision (A) in its entirety and substituting instead the following:

(A) "Misconduct" includes, but is not limited to, the following conduct by a claimant:

- (i) Conscious disregard of the rights or interests of the employer;
- (ii) Deliberate violations or disregard of reasonable standards of behavior that the employer expects of an employee;
- (iii) Carelessness or negligence of such a degree or recurrence to show an intentional or substantial disregard of the employer's interest or to manifest equal culpability, wrongful intent or shows an intentional and substantial disregard of the employer's interests or of the employee's duties and obligations to the employee's employer;
- (iv) Deliberate disregard of a written attendance policy and the discharge is in compliance with such policy;
- (v) A knowing violation of a regulation of this state by an employee of an employer licensed by this state, which violation would cause the employer to be sanctioned or have the employer's license revoked or suspended by this state; or

(vi) A violation of an employer's rule, unless the claimant can demonstrate that:

(a) The claimant did not know, and could not reasonably know, of the rule's requirements; or

(b) The rule is unlawful or not reasonably related to the job environment and performance;

SECTION 3. Tennessee Code Annotated, Section 50-7-302(a)(4), is amended by adding the following as a new subdivision:

(G) A claimant shall be considered ineligible for benefits if the claimant is incarcerated in any week of unemployment;

SECTION 4. Tennessee Code Annotated, Section 50-7-302(a)(4), is amended by adding the following language after the first sentence of the subdivision:

"Making a reasonable effort to secure work" means the claimant shall provide detailed information regarding contact with at least three (3) employers per week or shall access services at a career center created by the department. The administrator shall conduct random verification audits of one thousand (1,000) claimants weekly to determine if claimants are complying with the requirement of contacting at least three (3) employers per week or accessing services at a career center. The administrator shall disqualify any claimant receiving benefits who the administrator finds, as the result of a random audit or on information provided to the administrator, has provided false work search information for a period of not less than eight (8) benefit weeks.

SECTION 5. Tennessee Code Annotated, Section 50-7-304(b)(2)(C), is amended by adding the following language at the end of the subdivision:

The separating employer may supply information to the agency prior to a request for information being mailed from the agency if the employer expects a separation issue to arise with regard to an employee.

SECTION 6. Tennessee Code Annotated, Section 50-7-303(a), is amended by adding the following as new subdivisions thereto:

(11) For any week with respect to which the claimant is receiving, or has received, remuneration in the form of wages in lieu of notice;

(12) If the claimant received a severance package from an employer that includes an equivalent amount of salary the employee would have received if the employee was working during that week;

(13) If the claimant was discharged from the claimant's most recent work through a layoff by the employer and the employer has offered the claimant the same job the claimant had prior to the layoff or a similar job with an equivalent level of compensation that the claimant had prior to the layoff; or

(14) If the claimant has an offer of work withdrawn by an employer due to the claimant's refusal to submit to a drug test or the claimant's positive result from a drug test.

SECTION 7. Tennessee Code Annotated, Section 50-7-303(b), is amended by adding the following as a new subdivision thereto:

(4) For purposes of subdivision (a)(11), "wages in lieu of notice" means wages paid under circumstances where the employer, not having given an advance notice of separation to the employee, and irrespective of the length of service of the employee, makes a payment to the employee equivalent to the wages the employee could have earned had the employee been permitted to work during the period of notice.

SECTION 8. The department shall study the issue of "suitable work" including incremental decreases in wages for when a person is collecting benefits over an extended period of time.

SECTION 9. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 10. Section 4 and Section 5 of this act shall take effect September 1, 2012, the public welfare requiring it; all other sections of this act shall take effect upon becoming a law, the public welfare requiring it.